

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

APR 03 2008

at 3 o'clock and 55 min.
SUE BEITIA, CLERK

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6 Attorney for Defendants
 7 SULLIVAN PROPERTIES, INC. and
 8 ROBERT B. SULLIVAN

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APR. 01 2008

J. B.
CLERK, U.S. DISTRICT COURT
DISTRICT OF HAWAII

9 SELMAN BREITMAN, LLP
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13 Attorneys for Plaintiff-Appellee
 14 SCOTTSDALE INSURANCE COMPANY

IN THE UNITED STATES DISTRICT COURT**FOR THE DISTRICT OF HAWAII**

19 SCOTTSDALE INSURANCE
 20 COMPANY,

21 Plaintiff,

22 v.

23 SULLIVAN PROPERTIES, INC.;
 ROBERT B. SULLIVAN; MAUI
 24 LAND & PINEAPPLE COMPANY,
 INC.; AND KAPALUA LAND
 COMPANY, LTD.; AND DOES 1
 THROUGH 10, inclusive

27 Defendants.

CIVIL CASE NO: CV-04-00550 HG BMK
 (Declaratory Relief)

[Assigned to the Hon. Helen Gillmor]

**STIPULATION TO DISCHARGE
SUPERSEDEAS BOND**

Bond No. **104968130**

1 Plaintiff Scottsdale Insurance Company ("Scottsdale") and defendants
2 Sullivan Properties, Inc., and Robert B. Sullivan (collectively "Sullivan
3 defendants"), by and through their respective counsel of record, hereby stipulate as
4 follows:

5 1. On or about August 7, 2007, this Court granted summary judgment in
6 Scottsdale's favor.

7 2. On or around September 7, 2007, the Sullivan defendants appealed the
8 judgment.

9 3. On or around January 31, 2008, the parties reached a settlement
10 agreement whereby the Sullivan defendants, collectively, agreed to pay Scottsdale
11 the sum of One Hundred Thousand United States dollars (\$100,000.00).

12 4. All claims are being dismissed with prejudice pursuant to the
13 settlement agreement.

14 5. The Supersedeas Bond obligations have been discharged and the
15 Supersedeas Bond is no longer required and should be released.

16 6. Therefore, the parties hereby stipulate to discharge, release and
17 exonerate Supersedeas Bond Number **104968130** ("Supersedeas Bond") posted at
18 the request of the Principals, the Sullivan defendants, in connection with Civil Case
19 No. CV-04-00550 HG BMK by Travelers Casualty and Surety Company of
20 America ("Travelers") as Surety, in the amount of Two-Hundred Twenty-One
21 Thousand, Seven Hundred Twenty-Nine and 61/100 United States Dollars
22 (\$221,729.61).

23 7. Upon discharge of the Supersedeas Bond, Scottsdale's settlement will
24 be fully funded from the money paid by Sullivan Properties to Travelers as Surety.

25 8. Upon discharge of the Supersedeas Bond, Travelers, as Surety, is to
26 disburse One Hundred Ten Thousand, Eight Hundred and Sixty Four and 80/100
27 United States dollars (\$110,864.80) to the trust account of Kessner Umebayashi
28 Bain & Matsunaga ("KUBM"), the law firm which represents the Sullivan

Selman Breitman LLP
ATTORNEYS AT LAW

1 defendants by and through their attorney, Michele-Lynn E. Luke.

2 9. The parties hereby consent and agree that upon receipt of Sullivan
 3 Properties' collateral from Travelers to the trust account of KUBM, KUBM will
 4 write a check made payable to Scottsdale in the sum of One Hundred Thousand
 5 United States dollars (\$100,000.00) to satisfy the settlement agreement.

6 10. The parties hereby consent and agree to the entry of an Order by this
 7 Court discharging the Supersedeas Bond and releasing Travelers and its parents,
 8 affiliates and subsidiaries from any and all past, present, and future liability arising
 9 under or in connection with the issuance of the Supersedeas Bond.

10 WHEREFORE for the foregoing reasons, the parties through their
 11 undersigned counsel pray this Honorable Court enter an Order fully and
 12 unconditionally discharging, releasing and exonerating the Supersedeas Bond and
 13 releasing Travelers from any and all past, present and future liability arising under
 14 or in connection with the issuance of the Supersedeas Bond.

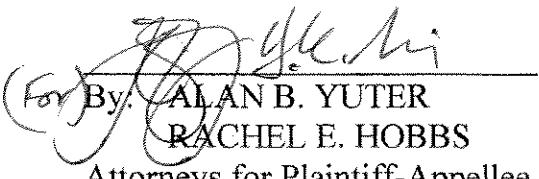
15 DATED: March 31, 2008

16 Respectfully submitted,
 17 KESSNER UMEBAYASHI BAIN &
 MATSUNAGA

18 
 19 By: MICHELE-LYNN E. LUKE
 20 Attorneys for Defendants-Appellants
 21 SULLIVAN PROPERTIES, INC. and
 ROBERT B. SULLIVAN

22 DATED: March 31, 2008

23 Respectfully submitted,
 24 SELMAN BREITMAN LLP

25 
 26 By: ALAN B. YUTER
 RACHEL E. HOBBS
 27 Attorneys for Plaintiff-Appellee
 28 SCOTTSDALE INSURANCE
 COMPANY

29 APPROVED AND SO ORDERED:

30 UNITED STATES DISTRICT JUDGE